

**United States Department of Labor
Employees' Compensation Appeals Board**

I.L., Appellant

and

**DEPARTMENT OF THE ARMY, ARMY
NATIONAL GUARD, Sacramento, CA,
Employer**

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**Docket No. 19-0077
Issued: July 26, 2019**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

On October 12, 2018 appellant filed a timely appeal from a June 21, 2018 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-0077.

The Board has duly considered the matter and finds that the case is not in posture for a decision and must be remanded to OWCP. In the case of *William A. Couch*,¹ the Board held that when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. On May 14, 2018 appellant, then a 25-year-old mechanic filed a traumatic injury claim (Form CA-1) alleging that he injured his nose on February 7, 2018 when a socket torque wrench he was using to tighten a spindle nut on a Humvee slipped and struck his nose while in the performance of duty. No evidence was submitted with the claim.

OWCP, in a development letter dated May 18, 2018, advised appellant of the factual and medical deficiencies of his claim. It requested that he submit a response to a form questionnaire explaining the delay in filing his claim and what happened during that time to prompt him to file a claim. Appellant was also asked to provide a narrative medical report from his physician which contained a detailed description of findings and diagnoses, explaining how the reported

¹ 41 ECAB 548 (1990).

employment incident had caused or aggravated his medical condition. He was afforded 30 days to submit the requested evidence.

In response, on June 21, 2018, appellant submitted a doctor's first report of occupational illness or injury and a narrative report dated February 7, 2018 by Dr. Leslie M. Kalman, a general practitioner. He also submitted forms completed on February 7 and 8, 2018 from HealthWorks Medical Group regarding his health history, authorization and consent to medical treatment, and acknowledgment of privacy practices.

By decision dated June 21, 2018, OWCP denied appellant's traumatic injury claim. It found that he had not met his burden of proof to establish that the February 7, 2018 employment incident occurred as alleged. OWCP further found that appellant had not submitted evidence containing a medical diagnosis in connection with the claimed injury or event(s). It found that "[y]ou were provided 30 days to submit the requested information; however, no further evidence was received." OWCP did not note receipt or consideration of the reports from Dr. Kalman and forms from HealthWorks Medical Group.

The Board finds that OWCP, in its June 21, 2018 decision, did not review the reports from Dr. Kalman dated February 7, 2018 and forms from HealthWorks Medical Group dated February 7 and 8, 2018. For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted at the time of the June 21, 2018 decision.² Following such further development as OWCP deems necessary, it shall issue a *de novo* decision on the claim.

IT IS HEREBY ORDERED THAT the June 21, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

² See *Linda Johnson*, 45 ECAB 439 (1994) (evidence received the same day as the issuance of OWCP's decision, but not previously considered, requires remand for *de novo* review).

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Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board